

2. The undersigned, lead attorney for Defendant, Eric P. Mathisen, has been admitted in the United States District Court for the Eastern District of Texas since August 1, 2012. I have appeared in 10 cases in this district. My practice is focused on litigation employee benefit disputes under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). I have represented clients in hundreds of ERISA cases and have represented Defendant on a significant number of occasions throughout the United States.

3. The parties have scheduled mediation with Harry Lee “Gil” Gillam on June 18, 2019, in Tyler, Texas. I intend to appear in person along with a representative of Defendant who will have full settlement authority.

4. Jeff T. Leslie, an associate attorney, in the firm’s Dallas office has also entered his appearance on behalf of Defendant in this matter. [Doc. 10] However, Mr. Leslie clarified in his Entry of Appearance that I remain as the lead attorney for Defendant.

5. I have reviewed the Court’s Standing Order Regarding Participation of Local Counsel in Mediation Efforts. In the current situation where I am admitted to practice in the Eastern District of Texas and the other counsel appearing for the client is a member of the same firm (rather than appearing pro hac vice with local counsel from another firm), it is unclear whether Mr. Leslie is considered local counsel and required to participate in the mediation unless excused by the Court. As a result and in an effort to avoid any violation of the Court’s Standing Order, I request permission to attend the mediation without Mr. Leslie for the reasons that follow.

6. I have reviewed the Local Rules in this Court, and the Standing Orders entered by Judge Gilstrap.

7. I have the most knowledge and familiarity with the facts of the case. I am also well versed and familiar with the issues that are unique to ERISA cases. Mr. Leslie focuses his practice on employment law litigation – no ERISA litigation. Accordingly, Defendant’s representative will rely on my advise and recommendations during the mediation.

8. Proceeding without Mr. Leslie will not impede, delay, or diminish the potential for resolution of the case.

9. Counsel for defendant consulted with counsel for Plaintiff regarding this motion, and Plaintiff's counsel indicated they not oppose this motion.

WHEREFORE, Defendant respectfully requests this Court to grant it leave from this Court's Standing Order Regarding Participation of Local Counsel in Mediation Efforts to the extent it applies under the circumstances, to allow attorney Eric P. Mathisen to appear at the mediation without attorney Jeff Leslie, and for such other and further relief as the Court deems just and proper.

DATED: June 11, 2019

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By: /s/ Eric P. Mathisen

Eric P. Mathisen, IN Bar #19475-71

Lead Attorney

56 S. Washington St., Suite 302

Valparaiso, IN 46383

Phone: (219) 242-8666

Fax: (219) 242-8669

eric.mathisen@ogletree.com

Jeff T. Leslie

Texas State Bar No. 24091294

Jeff.leslie@ogletree.com

500 Preston Commons West

8117 Preston Road

Dallas, Texas 75225

(214) 987-3800 (Phone)

(214) 987-3927 (Fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *DEFENDANT'S MOTION FOR LEAVE TO PROCEED WITHOUT LOCAL COUNSEL AT MEDIATION* was filed electronically on June 11, 2019 and that service of same on all counsel of record will be made by the Court's CM/ECF system as follows:

J. Mark Mann
mark@themannfirm.com

G. Blake Thompson
blake@themannfirm.com

ATTORNEYS FOR PLAINTIFF

/s/ Eric P. Mathisen
ATTORNEY FOR DEFENDANT